

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA**

MARCIA RHODES,)	
)	
Plaintiff,)	
)	
VS.)	CASE NO.: 1:07-CV-251
)	EDGAR/LEE
MOTION INDUSTRIES, INC., a)	
Corporation; CHARLIE MEURISSE,)	
an individual,)	
)	
Defendants.)	

**DEFENDANT MOTION INDUSTRIES, INC.'S MOTION TO COMPEL PLAINTIFF TO
RESPOND TO QUESTIONS THAT SHE REFUSED TO ANSWER DURING HER
DEPOSITION AND RULE 35 MENTAL EXAMINATION AND MOTION FOR
SANCTIONS**

COMES NOW Defendant Motion Industries, Inc. (hereinafter "Defendant" or "Motion Industries"), and respectfully moves the Court for entry of an order compelling Plaintiff Marcia Rhodes (hereinafter "Plaintiff") to respond to questions posed to her regarding a past history of sexual abuse that Plaintiff refused to answer during both her deposition which occurred on August 20, 2008 and August 29, 2008 and the Independent Mental Examination which occurred on September 11, 2008. Defendant further requests an Order awarding sanctions pursuant to Rules 30 and 37 of the Federal Rules of Civil Procedure for having to bring this Motion.

WHEREFORE, for the reasons stated herein and in the accompanying Memorandum in Support of Defendant Motion Industries, Inc.'s Motion to Compel Plaintiff to Respond to Questions That She Refused to Answer During Her Deposition and Rule 35 Mental Examination and Motion for Sanctions, and good cause having been shown, Defendant Motion Industries respectfully requests that this Court issue an Order requiring Plaintiff to submit to the questioning at issue and sanctioning Plaintiff for having refused to submit to such questions on

the occasions at issue. Defendant further requests that it be permitted a reasonable period of time following Plaintiff's submission to the questions in the context of a deposition and her IME to comply with its expert disclosure deadline, currently set for September 30, 2008.

Respectfully submitted this 15th day of September, 2008.

MARTENSON, HASBROUCK & SIMON LLP

/s/ Patricia E. Simon

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Defendants.)	

CERTIFICATE OF CONSULTATION

I, Patricia E. Simon, Esq., hereby certify that prior to the filing of the instant Motion to Compel Plaintiff to Respond to Questions That She Refused to Answer During Her Deposition and Rule 35 Mental Examination and Motion for Sanctions, I consulted with Plaintiff's counsel, James M. Wooten, Esq., in an attempt to reach an agreement with respect to the area of questioning at issue. However, we were unable to reach agreement with respect to the same.

This 15th day of September, 2008.

MARTENSON, HASBROUCK & SIMON LLP

/s/ Patricia E. Simon

Patricia E. Simon, Esq.

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Atlanta, Georgia 30326
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Attorneys for Defendant Motion Industries, Inc.

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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of September, 2008, a true and correct copy of the foregoing documents entitled **DEFENDANT MOTION INDUSTRIES, INC.’S MOTION TO COMPEL PLAINTIFF TO RESPOND TO QUESTIONS THAT SHE REFUSED TO ANSWER DURING HER DEPOSITION AND RULE 35 MENTAL EXAMINATION AND MOTION FOR SANCTIONS**, were served on counsel via the Court’s ECF system and addressed as follows:

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/s/ Patricia E. Simon

Patricia E. Simon, Esq.